

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(NPD)No.1908 of 2020

and

CMP.No.11686 of 2020

[Through Video Conferencing]

1.A.Pichaiammal

2.Minor Tharra

... Petitioners/Defendants

/vs/

V.T.Sugi

... Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to set aside the order dated 22.01.2020 passed in E.P.No.46 of 2019 in O.S.No.6 of 2018 on the file of the Sub Court, Nagapattinam by allowing the Civil Revision Petition.

For Petitioners : Mr.K.M.Subramanian

For Respondent : Ms.T.Ananthi

ORDER

The revision petition has been filed questioning the order dated 22.01.2020 in E.P.No.46 of 2019 which Execution Petition has been filed in O.S.No.6 of 2018 which was pending before the Sub Court at Nagapattinam.

2.Let me not deeply go into the merits of the case but rather state that O.S.No.6 of 2018 had been referred for an amicable settlement before the Lok Adalat and a Compromise Memo was also filed and Terms of Settlement had been drawn up by the Lok Adalat and probably also accepted by all the parties. But, there was no compliance of the terms as directed by the Lok Adalat.

3.Necessarily, Execution Petition came to be filed in E.P.No.46 of 2019. An order has been passed in the Execution Petition that there should be compliance of the directions of the award of the Lok Adalat.

4.Questioning that order, the present revision petition has been filed.

5.It is contented by Mr.K.M.Subramanian, learned counsel for the revision petitioners that the Lok Adalat Award itself stands vitiated owing to the acts of fraud of the counsel

6.However, this statement is much disputed by Ms.T.Ananthi, learned counsel for the respondent who states that a memo of compromise was filed, advocates were present, parties were present and only thereafter was compromise effected by the Lok Adalat.

7.It is also the contention of Mr.K.M.Subramanian, that an suit has also been filed, questioning the legality of the award.

8. In view of all these complicated facts, it would only be better particularly since the Award of Lok Adalat has been assailed on various grounds, that the parties themselves graze the witness box and speak as to what has happened during the Lok Adalat.

9.It has to be noted that while recording evidence, the chief examination should be recorded orally and written proof affidavit should not be filed.

10.Let the parties assailing the Lok Adalat Award, graze the witness box, adduce evidence and let that evidence be tested.

11.This would be the appropriate manner in which any Court can test whether a Lok Adalat Award can be permitted to stand or should be re-examined and revisited.

12.A direction is issued to the learned Sub Judge to record evidence in E.P.No.46 of 2019 and the Sub Judge has to record oral examination in chief.

The order under revision is set aside. The matter is remanded back for further examination of the facts in the manner aforesaid.

13.The learned Sub Judge, Nagapattinam may invite the parties to tender evidence and whenever evidence commences, to the extent possible, examine the parties on a day to day basis and even if that is not practically possible, grant only three working days in between any two adjournments. The learned Sub Judge may also refuse to grant adjournments for the same reason on more than two occasions. If any trial is conducted on the above procedure, it would be under the grips of the learned Judge and also be concluded within a limited period of time. The learned Sub Judge may follow the above procedure during the course of trial.

14.With the above directions, the Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition also stands closed. No order as to costs.

Index:Yes/No
Internet:Yes/No
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To

1.The Sub Court, Nagapattinam.

C.V.KARTHIKEYAN, J.

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